

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3125 OF 2003

Mr.S.H. Shyamani.	...Applicant
V/s.	
State of Maharashtra & Anr.	...Respondent

Mr.Ganesh Gole for Applicant.
Mr.D.S. Jani for Respondent No.2.
Ms.S.D. Shinde, APP for State.

CORAM : V.M. KANADE, J.

DATED : FEBRUARY 1, 2006

P.C. :-

. Heard learned Counsel for the applicant, learned Counsel for respondent no.2 and learned APP for the State.

. The applicant is challenging the order passed by the learned Additional Chief Metropolitan Magistrate, 33rd Court, Ballard Pier, dated 18th January, 2003 whereby he was pleased to issue process on a complaint which was filed against the present applicant and others punishable under Sections 323, 325, 500, 504, 506, 298, 120B and 34 of the IPC. The said application was admitted on 4th November, 2003 and interim relief in terms of prayer clause (b) was granted. After rule was served, respondent no.2 has appeared through his

Advocate and has filed his affidavit-in-reply. In para 8 of the said affidavit-in-reply, he has stated that the dispute between the other accused and respondent no.2 has been settled and that he wished to withdraw all the allegations raised against the present applicant as well as other accused as he has no intention of prosecuting them. This affidavit-in-reply has been signed by respondent no.2 and he has been identified by counsel appearing on behalf of respondent no.2 and the affidavit was affirmed before the Assistant Registrar, High Court, Appellate Side at Bombay.

2. In view of the specific averment made by respondent no.2 in the affidavit-in-reply, the order of issuance of process by the Magistrate dated 18th January, 2003 will have to be set aside and is hereby quashed with the consent of respondent no.2 - complainant in the said case.

3. In the result, Criminal Application is allowed in terms of prayer clause (a). Rule is made absolute in the above terms.

(V.M. KANANDE, J.)